THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1272 OF 1999

20.02.2006

Between:

N.Swalamma, W/o.late Ramanadham

And others

… Petitioners

AND

The District Collector, Chittoor

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1272 OF 1999

ORDER:

The four petitioners filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents in dispossessing the petitioners from their huts in survey No.48 of Tirupathi as illegal and arbitrary.

It is the case of the petitioners that all of them raised small huts in survey No.48 admeasuring Acs.1.86. They also allege that they have been paying the house tax to the Municipality and electricity charges to the department concerned. It appears that the respondents directed the petitioners to vacate the premises/land on the ground that the same was allotted to Tourism Department and so as to evict the petitioners, they came to the premises with police on 10.1.1999 and threatened to demolish the houses. They also allege that without giving notice and without calling for explanation, the respondents tried to dispossess the petitioners. The petitioners also allege that the then Tahsildar, Chandragiri gave house site pattas to them on 19.4.1983 and therefore, they cannot be arbitrarily evicted from the land.

The third respondent filed a detailed counter affidavit. It is stated that petitioners 1 and 2 filed writ petitions being W.P.Nos.15097 and 19149 of 2006 seeking a direction to the respondents not to dispossess them from the land in T.S.No.48/2 of Tirupathi. This Court disposed of the writ petitions on 11.9.1996 observing that the petitioners shall not be dispossessed without due process of law. Accordingly, the Mandal Revenue Officer (MRO), Tirupathi Urban Mandal issued a notice to the petitioners on 20.11.1998. The notice was served on the first petitioner but the second petitioner refused to receive the notice, and therefore, it was affixed to the door of the house of second petitioner. The MRO, thereafter, passed orders on 04.12.1998 for eviction of the petitioners. The petitioners were evicted from the land. It is further stated that the land in survey No.48 is classified as Rastha Poramboke. So as to convert the same, the District Collector, Chittoor issued proceedings on 19.4.1972, as per the orders of the Government in G.O.Ms.No.107 dated 01.2.1972 classifying the same as P.W.D. Poramboke. An extent of Acs.1.01 was allotted to Tourism Department for construction of guesthouse and the balance land was allotted to R&B Department. The allegation made by the petitioners that a patta was granted to them by the Tahsildar, Chandragiri was denied. It is stated that after allotment of the land to Tourism Department and R&B Department, no land is available since 1972 and at no point of time patta was granted to anybody. The petitioners were in illegal occupation of land and therefore as directed by this Court in W.P.Nos.15097 and 19149 of 2006, by following the due process of law, the encroachments were removed.

The learned Counsel for the petitioners submits that even after the allotment of the land to Tourism Department, there is still vacant land and the petitioners can be accommodated on the same land. Opposing the said contention, the learned Standing Counsel for A.P. Tourism Development Corporation and learned Assistant Government Pleader for Revenue (Assignment) submit that the petitioners have suppressed the factums of filing the earlier writ petitions, that they were not in possession of the land and that A.P. Tourism Department constructed the guest house on the land allotted to them.

The petitioners have not filed any reply affidavit denying the averments made in the counter affidavit. It is very surprising to note that though the petitioners 1 and 2 filed writ petitions earlier, the same is suppressed in the present writ petition. Secondly, the fact that the petitioners were removed from the land pursuant to the proceedings of the MRO in Roc.B/1054/96, dated 04.12.1998 is also suppressed by them. Thirdly, the land has already been to A.P.Tourism Department and R&B Department way back in 1972 and therefore, the allegation that the land was allotted to the petitioners by the then Tahsildar, Chandragiri in 1983 cannot be believed. For these reasons, the petitioners are not entitled to any relief as prayed for.

Lastly, it is contended by the learned Counsel for the petitioners that the petitioners were in occupation of the land in survey No.48 of Tirupathi for long time raising huts and therefore, their cases may be considered by the MRO for allotment of suitable house sites. If the petitioners are landless, homeless and poor persons, they can make applications to the MRO. Taking into consideration their eligibility, the MRO may consider their cases for allotment of houses under any housing scheme

provided by the Government.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

February 20, 2006

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